

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

XIULING WEI; WEIGUO WANG; YIPENG  
WANG; ANASTASIIA MARCHUK,

Petitioners,

-against-

YAHOO, INC.,

Respondent.

24-CV-9077 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Petitioners, appearing *pro se*, submitted this application under 28 U.S.C. § 1782 for an order permitting discovery for use in a foreign proceeding. (ECF 1.) Petitioners also submitted to the court a civil cover sheet indicating that they were bringing a civil proceeding against Respondent Yahoo, Inc. (ECF 2.) Petitioners did not pay the filing fees or submit applications to proceed *in forma pauperis*. The Clerk of Court treated this application as a new complaint and opened it as a new civil action under this case number, 24-CV-9077 (LTS).

Because Petitioners seek an order permitting discovery for use in a foreign proceeding, this case should have been opened as a miscellaneous matter. *See, e.g., Ayyash v. Crowe Horwath LLP*, No. 17-MC-0482 (AJN) (S.D.N.Y. June 19, 2018) (application seeking permission for discovery for use in a foreign proceeding under 28 U.S.C. § 1782 opened as a miscellaneous case); *In Re: Application of Hornbeam Corp.*, No. 14-MC-0424-P1 (S.D.N.Y. Dec. 24, 2014) (same); *see also Lakhtakia v. Am. Express Co.*, No. 19-CV-3708 (CM) (S.D.N.Y. May 3, 2019) (order directing that application under 28 U.S.C. § 1782 incorrectly opened as a civil action be closed and opened as a miscellaneous matter).

### CONCLUSION

The Court therefore directs the Clerk of Court to: (1) close this action, No. 24-CV-9077 (LTS), without prejudice to Petitioners litigating their claims in the miscellaneous case ; (2) open a new miscellaneous case for this matter; (3) docket a copy of this order and Petitioners' application and other filings (ECF 1-3) in the miscellaneous action; and (4) process the miscellaneous matter in accordance with the procedures of the Clerk's Office.

Within 30 days of the date of this order, Petitioners must pay the \$52.00 fee to file a miscellaneous action in this court, or to proceed without prepayment of the fee, each petitioner must submit a completed and signed application to proceed *in forma pauperis*.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: November 27, 2024  
New York, New York

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
Chief United States District Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
(Full name(s) of the plaintiff or petitioner applying (each person must submit a separate application))

-against-

\_\_\_\_ CV \_\_\_\_\_ ( ) ( )

(Enter case number and initials of assigned judges, if available; if filing this with your complaint, you will not yet have a case number or assigned judges.)

\_\_\_\_\_  
(Full name(s) of the defendant(s)/respondent(s).)

**APPLICATION TO PROCEED WITHOUT PREPAYING FEES OR COSTS**

I am a plaintiff/petitioner in this case and declare that I am unable to pay the costs of these proceedings and I believe that I am entitled to the relief requested in this action. In support of this application to proceed *in forma pauperis* (“IFP”) (without prepaying fees or costs), I declare that the responses below are true:

1. *Are you incarcerated?* ☐ Yes ☐ No (If “No,” go to Question 2.)

I am being held at: \_\_\_\_\_

Do you receive any payment from this institution? ☐ Yes ☐ No

Monthly amount: \_\_\_\_\_

If I am a prisoner, *see* 28 U.S.C. § 1915(h), I have attached to this document a “Prisoner Authorization” directing the facility where I am incarcerated to deduct the filing fee from my account in installments and to send to the Court certified copies of my account statements for the past six months. *See* 28 U.S.C. § 1915(a)(2), (b). I understand that this means that I will be required to pay the full filing fee.

2. *Are you presently employed?* ☐ Yes ☐ No

If “yes,” my employer’s name and address are: \_\_\_\_\_

Gross monthly pay or wages: \_\_\_\_\_

If “no,” what was your last date of employment? \_\_\_\_\_

Gross monthly wages at the time: \_\_\_\_\_

3. In addition to your income stated above (which you should not repeat here), have you or anyone else living at the same residence as you received more than \$200 in the past 12 months from any of the following sources? Check all that apply.

(a) Business, profession, or other self-employment	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(b) Rent payments, interest, or dividends	<input type="checkbox"/> Yes	<input type="checkbox"/> No

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| (c) Pension, annuity, or life insurance payments  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability or worker's compensation payments  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts or inheritances   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other public benefits (unemployment, social security, food stamps, veteran's, etc.) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (g) Any other sources   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

If you answered "No" to all of the questions above, explain how you are paying your expenses:

4. How much money do you have in cash or in a checking, savings, or inmate account?
  
5. Do you own any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value, including any item of value held in someone else's name? If so, describe the property and its approximate value:
  
6. Do you have any housing, transportation, utilities, or loan payments, or other regular monthly expenses? If so, describe and provide the amount of the monthly expense:
  
7. List all people who are dependent on you for support, your relationship with each person, and how much you contribute to their support (only provide initials for minors under 18):
  
8. Do you have any debts or financial obligations not described above? If so, describe the amounts owed and to whom they are payable:

*Declaration:* I declare under penalty of perjury that the above information is true. I understand that a false statement may result in a dismissal of my claims.

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Last, First, MI)

\_\_\_\_\_  
Prison Identification # (if incarcerated)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
E-mail Address (if available)